

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Daniel Herrera, #89473-198, ) C/A No. 5:12-1002-CMC-KDW  
v. )  
Plaintiff, )  
 )  
 )  
 ) Report and Recommendation  
Warden Darleen Drew; SIS, Lt. Brawley; Captain Gerald )  
DelRey; Lt. Miller; Lt. Edwards; Lt. Jones; M.D. Berrios; )  
R.N. Borck; HSA McDannold, )  
 )  
Defendants.

Plaintiff, proceeding pro se and in forma pauperis, brought this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. On August 31, 2012, Defendants filed a Motion to Dismiss. ECF No. 31. As Plaintiff is proceeding pro se, the court entered an order on September 4, 2012, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising him of the importance of a motion to dismiss and of the need for him to file an adequate response. ECF No. 32. Plaintiff was specifically advised that if he failed to respond adequately, that Defendants' motion may be granted, thereby potentially ending this case. Notwithstanding the specific warning and instructions set forth in the court's Roseboro order, Plaintiff has failed to respond to the motion.

On October 12, 2012, the court ordered Plaintiff to advise whether he wished to continue with the case by October 29, 2012. ECF No. 35. Plaintiff has filed no response. As such, it appears to the court that Plaintiff does not oppose Defendants' motion and wishes to abandon his action. Based on the foregoing, the undersigned recommends this action be dismissed with prejudice for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO RECOMMENDED.



October 30, 2012  
Florence, South Carolina

Kaymani D. West  
United States Magistrate Judge

**The parties are directed to note the important information in the attached  
“Notice of Right to File Objections to Report and Recommendation.”**